36 pgs -

MT LEGISLATIVE HISTORY

Chapter 448 1989

Bill (H) 606 S _____ Original bill & hist. ✓ C

H. Committee on Judiciary

Hearing Date(s) Feb 15 ✓ C

_____ ___ C

_____ ___ C

_____ ___ C

Date Out Feb 15 ✓ C

S. Committee on Judiciary

Hearing Date(s) Mar 16 ✓ C

Mar 17 ✓ C

_____ ___ C

_____ ___ C

Mar 17 ✓ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

HOUSE BILL NO. 606

INTRODUCED BY GRADY, BRADLEY, B. BROWN, BLAYLOCK, HANNAH, IVERSON, SPAETH, D. BROWN, RANEY, MCDONOUGH, ADDY

IN THE HOUSE

FEBRUARY 8, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 16, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 17, 1989	PRINTING REPORT.
FEBRUARY 18, 1989	SECOND READING, DO PASS.
FEBRUARY 20, 1989	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 75; NOES, 19.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 17, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 20, 1989	SECOND READING, CONCURRED IN.
MARCH 22, 1989	THIRD READING, CONCURRED IN. AYES, 38; NOES, 11.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 22, 1989	RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. 606

INTRODUCED BY Bradley, Boe Brown, Blaylock, Brown, Raney, McNutt, Addy

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A PARENT, GUARDIAN, AND CERTAIN OTHER ADULTS TO LEGALLY PROVIDE NONINTOXICATING AMOUNTS OF ALCOHOL TO A PERSON UNDER 21 YEARS OF AGE; TO MAKE THE PROVIDER OF AN INTOXICATING QUANTITY OF ALCOHOL TO A PERSON UNDER 21 YEARS OF AGE SUBJECT TO CIVIL LIABILITY FOR TORTIOUS ACTS COMMITTED BY THE PERSON WHILE INTOXICATED; AND AMENDING SECTIONS 16-6-305, 27-1-710, 45-5-622, 45-5-623, AND 61-8-407, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-6-305, MCA, is amended to read:

"**16-6-305. Age limit for sale or provision of alcoholic beverages -- liability of provider.** (1) (a) Except in the case of an alcoholic beverage ~~given~~ provided in a nonintoxicating quantity to a person under 21 years of age by his parent or guardian, ~~for--beverage--or--medicinal purposes--or-administered-to-him-by-his~~ physician or dentist for medicinal purposes, ~~or--sold--to--him--by~~ a ~~vendor--or druggist~~ licensed pharmacist upon the prescription of a physician, or an ordained minister or priest in connection with a religious observance, ~~no~~ a person ~~shall~~ may not sell, ~~give~~, or otherwise ~~supply~~ provide an alcoholic beverage to ~~any~~ a person under 21 years of age ~~or--permit--any--person under-that-age-to-consume-an-alcoholic-beverage.~~

(b) A parent, guardian, or other person may not knowingly sell or otherwise provide an alcoholic beverage in an intoxicating quantity to a person under 21 years of age.

(c) For the purposes of this section, "intoxicating quantity" means a quantity of an alcoholic beverage that is sufficient to produce:

(i) a blood, breath, or urine alcohol concentration in excess of 0.05; or

(ii) substantial or visible mental or physical impairment.

(2) Any person ~~shall be~~ is guilty of a misdemeanor who:

(a) invites a person under the age of 21 years into a public place where an alcoholic beverage is sold and treats, gives, or purchases an alcoholic beverage for ~~such~~ the person;

(b) permits ~~such~~ the person in a public place where an alcoholic beverage is sold to treat, give, or purchase alcoholic beverages for him; or

(c) holds out ~~such~~ the person to be 21 years of age or older to the owner of the establishment or his or her employee or employees.

(3) It is unlawful for any person to fraudulently

INTRODUCED BILL
HB 606

misrepresent his or her age to any dispenser of alcoholic beverages or to falsely procure any identification card or to alter any of the statements contained in any identification card.

(4) A person 21 years of age or older who violates the provisions of subsection (1)(b) is, in addition to applicable criminal penalties, subject to civil liability for damages resulting from a tortious act committed by the person to whom the intoxicating substance was sold or provided if the act is judicially determined to be the result of the intoxicated condition created by the violation."

Section 2. Section 27-1-710, MCA, is amended to read:

"**27-1-710. Civil liability for injuries involving alcohol consumption.** (1) The purpose of this section is to set statutory criteria governing the liability of a person or entity that furnishes an alcoholic beverage for injury or damage arising from an event involving the person who consumed the beverage.

(2) A Except as provided in 16-6-305, a person or entity furnishing an alcoholic beverage may not be found liable for injury or damage arising from an event involving the consumer wholly or partially on the basis of a provision or a violation of a provision of Title 16.

(3) Furnishing a person with an alcoholic beverage is

not a cause of, or grounds for finding the furnishing person or entity liable for, injury or damage wholly or partly arising from an event involving the person who consumed the beverage unless:

(a) the consumer was under the legal drinking age and the furnishing person knew that the consumer was underage or did not make a reasonable attempt to determine the consumer's age;

(b) the consumer was visibly intoxicated; or

(c) the furnishing person forced or coerced the consumption or told the consumer that the beverage contained no alcohol."

Section 3. Section 45-5-622, MCA, is amended to read:

"**45-5-622. Endangering the welfare of children.** (1) A parent, guardian, or other person supervising the welfare of a child less than 18 years old commits the offense of endangering the welfare of children if he knowingly endangers the child's welfare by violating a duty of care, protection, or support.

(2) A Except as provided in 16-6-305, a parent or guardian or any person who is 18 years of age or older, whether or not he is supervising the welfare of the child, commits the offense of endangering the welfare of children if he knowingly contributes to the delinquency of a child less than:

(a) 18 years old by:

(i) supplying or encouraging the use of an intoxicating ~~substances~~ substance by the child; or

(ii) assisting, promoting, or encouraging the child to enter a place of prostitution; or

(b) 16 years old by assisting, promoting, or encouraging the child to:

(i) abandon his place of residence without the consent of his parents or guardian; or

(ii) engage in sexual conduct.

(3) A person convicted of endangering the welfare of children shall be fined not to exceed $500 or imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of a second offense of endangering the welfare of children shall be fined not to exceed $1,000 or imprisoned in the county jail for any term not to exceed 6 months, or both.

(4) On the issue of whether there has been a violation of the duty of care, protection, and support, the following, in addition to all other admissible evidence, is admissible: cruel treatment; abuse; infliction of unnecessary and cruel punishment; abandonment; neglect; lack of proper medical care, clothing, shelter, and food; and evidence of past bodily injury.

(5) The court may order, in its discretion, any fine

levied or any bond forfeited upon a charge of endangering the welfare of children paid to or for the benefit of the person or persons whose welfare the defendant has endangered."

Section 4. Section 45-5-623, MCA, is amended to read:

"**45-5-623. Unlawful transactions with children.** (1) A Except as provided for in 16-6-305, a person commits the offense of unlawful transactions with children if he knowingly:

(a) sells or gives explosives to a child under the age of majority except as authorized under appropriate city ordinances;

(b) sells or gives intoxicating substances other than alcoholic beverages to a child under the age of majority;

(c) sells or gives an alcoholic ~~beverages~~ beverage to a person under 21 years of age; or

(d) being a junk dealer, pawnbroker, or secondhand dealer, receives or purchases goods from a child under the age of majority without authorization of the parent or guardian.

(2) A person convicted of the offense of unlawful transactions with children shall be fined not to exceed $500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of a second offense of unlawful transactions with children shall be

fined not to exceed $1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both."

Section 5. Section 61-8-407, MCA, is amended to read:

"**61-8-407. Definition of alcohol concentration.** For purposes of 16-6-305, 61-8-401, and 61-8-406, "alcohol concentration" means either grams of alcohol per 100 milliliters of blood, grams of alcohol per 210 liters of breath, or grams of alcohol per 75.3 milliliters of urine."

NEW SECTION. **Section 6. Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

-End-

Rep. McDonough questioned Mr. Blehm if under current law does an insurance company look at whether or not property taxes are paid as a motive? Mr. Blehm responded that it is investigated by the insurance company as well as the person involved with the investigation.

Closing by Sponsor: Rep. Driscoll closed.

DISPOSITION OF HOUSE BILL 592

Motion: A DO PASS motion was made by Rep. Gould, motion seconded by Rep. McDonough.

Discussion: None.

Amendments, Discussion, and Votes: Rep. Addy moved to strike section 2 from the bill, motion seconded by Rep. Hannah.

Recommendation and Vote: Rep. Brown recommended to HOLD HB 592 for further consideration while amendments were being drafted.

HEARING ON HOUSE BILL 606

Presentation and Opening Statement by Sponsor:

Rep. Ed Grady, House District 47 stated that the intent of HB 606 is to clearly allow parents to provide their own children with moderate amounts of alcohol, such as a glass of wine at dinner. He submitted before the Committee a written testimony explaining the full intent, effects, and rationale of HB 606 (EXHIBIT 7). Additionally, Rep. Grady supplied the Committee with a letter from Mike Males who helped with the drafting of the bill clarifying the intent of HB 606 (EXHIBIT 8).

Testifying Proponents and Who They Represent:

Rep. Dorothy Bradley, House District 79

Proponent Testimony:

Rep. Dorothy Bradley stated that this parental consent bill puts responsibility exactly where it should be. She feels it is necessary to clean up a lot loose ends that have been left hanging in the law besides being a good philosophical concept. We need something like this to clear up that problem and get the law in line with commonly accepted practices. Rep. Bradley commented that it has been a problem for her to watch the treatment of youth and drinking in the last number of years. The statistics show that when left to their own devices in dealing with the issues of alcohol, young people have done very well, if not better than adults. They have really cleaned up their act when they were left on their own to stop the intoxicated driving, to put on peer pressure for non drinking drivers, and they

have had exemplary behavior in the youth levels; yet we persist in punishing them when it has not been deserved. To Rep. Bradley, this brings a happy compromise. It brings families, parents, guardians, etc. into the act, which is exactly how it should be.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Nelson questioned if there was any minimum age established? Rep. Grady responded, no. This applies to anyone under 21 years of age.

Rep. Daily in reference to page 2, line 10 questioned why .05 was chosen instead of .01 as it currently stands? Mike Males addressed Rep. Daily's question by stating that it is a more conservative standard to reflect the age group. .05 is the standard of impairment used under the drunk driving statutes that they used as a guideline.

Closing by Sponsor: In closing, Rep. Grady stressed to the committee that the full intent of this bill is to try to keep children from becoming alcoholics. This bill helps to clarify that you can still give children a glass of wine without the intention of making them become alcoholics.

DISPOSITION OF HOUSE BILL 606

Motion: Rep. Addy made a DO PASS motion, seconded by Rep. Hannah.

Discussion: None.

Amendments, Discussion, and Votes: Rep. Wyatt moved to add section 45-5-624, subsection 1 of Rep. Darko's HB 393 to the statute, motion seconded by Rep. Gould. Motion CARRIED.

Recommendation and Vote: A DO PASS AS AMENDED motion was made by Rep. Darko, motion seconded by Rep. Gould. A vote was taken and CARRIED unanimously.

DISPOSITION OF HOUSE BILL 495

Motion: Rep. Strizich motioned DO PASS, seconded by Rep. Darko.

Discussion: None.

Amendments, Discussion, and Votes: Rep. Strizich moved amendments (EXHIBIT 9), seconded by Rep. Darko. Motion

DAILY ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date FEB. 15, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

CS-30

STANDING COMMITTEE REPORT

February 15, 1989

Mr. Speaker: We, the committee on Judiciary report that HOUSE BILL 606 (first reading copy -- white) do pass as amended.

Signed: _____
Dave Brown, Chairman

And, that such amendments read:

1. Title, line 11.
Following: "45-5-623,"
Insert: "45-5-624,"

2. Page 7, line 3.
Following: line 2
Insert: "Section 5. Section 45-5-624, MCA, is amended to read:

"45-5-624. Unlawful possession of an intoxicating substance -- interference with sentence or court order.

(1) A person under the age of 18 years commits the offense of possession of an intoxicating substance if he knowingly has in his possession an intoxicating substance other than an alcoholic beverage. A person under the age of 21 commits the offense of possession of an intoxicating substance if he knowingly has in his possession an alcoholic beverage, except as provided in 16-6-305, and except that he does not commit the offense when in the course of his employment it is necessary to possess alcoholic beverages.

(2) A person convicted of the offense of possession of an intoxicating substance shall:

(a) be fined not to exceed $50;

(b) be ordered to complete and, if financially able, pay all costs of his participation in a community-based substance abuse information course;

(c) have his driver's license confiscated by the court for not more than 90 days and be ordered not to drive during that period if he was driving or otherwise in actual physical control of a motor vehicle when the offense occurred; or

(d) be sentenced to any combination of these

penalties.

(3) A defendant who fails to comply with a sentence and is under 21 years of age and was under 18 years of age when he failed to comply must be transferred to the youth court. If proceedings for violation of subsection (1) are held in the youth court, the penalties in subsection (2) do not apply. If proceedings for violation of subsection (1) or for failure to comply with a sentence are held in the youth court, the offender shall be treated as an alleged youth in need of supervision as defined in 41-5-103. In such case, the youth court may enter its judgment under 41-5-523.

(4) A person commits the offense of interference with a sentence or court order if he purposely or knowingly causes his child or ward to fail to comply with a sentence imposed under this section or a youth court disposition order for a youth found to have violated this section and upon conviction shall be fined $100 or imprisoned in the county jail for 10 days, or both." "

Renumber: subsequent sections

EXHIBIT 7
DATE 2-15-89
HB 606

HOUSE BILL 606 -- effects:

- Provides that a parent or guardian may provide alcoholic beverages in less than intoxicating quantity to his/her own child under age 21.
- Defines "intoxicating quantity" to mean that amount of alcohol which produces significant mental or physical impairment, or a blood alcohol content of .05 or greater.
- Provides that a person over 21 who provides alcohol in intoxicating quantity to a person under 21 is civilly liable for any tortious act judicially determined to be the result of that intoxication.
- Clarifies and cross-references current contradictory laws. Sections 45-5-622 and -623 appear to ban parents from giving any alcohol to their own children due to the vagueness of whether the phrase, "contributes to the delinquency of a child" refers to the giving of the alcohol itself, or some other delinquent act caused by the alcohol provision. Conversely, 16-6-305 allows parents to give alcohol to their children for "beverage" purposes without limit on quantity. HB 606 attempts to strike middle ground between these two extremes.

- Does not extend the authority of parents to give alcohol to their children beyond present law; in fact, it sets limits.
- Does not allow adults other than parents to give alcohol to their children, except doctors or pharmacists for prescribed medical uses, or ordained priests or ministers in connection with religious rituals.
- Does not extend the liability of tavern owners beyond present law.
- Does not change present law with respect to public drinking by minors.

Intent of HB 606:

- To clearly allow parents to provide their own children with moderate amounts of alcohol, such as a glass of wine at dinner.
- To prohibit parents from getting their children drunk.
- To allow early intervention into family situations where parents get their children chronically or substantially drunk, or allow them out in public while drunk, before more serious offenses occur.
- To extend the liability of persons over 21 who get underaged persons drunk to specifically include parents and members of the public.

Rationale for HB 606:

- Studies have consistently shown that (a) youths who learn to drink in family settings have fewer alcohol problems than youths who learn to drink with peers, and (b) family settings promote more moderate use of alcohol by both youths and adults than peer-only settings. HB 606 promotes both moderation and family context for alcohol use.
- Parents need clear and reasonable guidelines covering alcohol provision, rather than the contradictory mismash of present law that makes no distinction between parents who provide a glass of wine at dinner and parents who throw keggers for their children.
- There is no medical evidence that light or moderate drinking by youths promotes alcoholism, but there is evidence that heavy, chronic drinking impairs minors more than adults. HB 606 separates these practices.
- HB 606 is likely to be enforced only in clear cases in which parents get their children repeatedly or very drunk. If a youth refuses to take a BAC test, conviction can occur from the impairment standard.

DATE 2-15-87
HB 606

Rep. Ed Grady 14 Feb. 1988

Dear Ed --

Attached is a letter to Dave Brown clarifying HB 606 and its intent, which is first of all to cross-reference and clarify current law, and second to provide reasonable limits and liability standards. What HB 606 seeks to do is let parents know what they can do by separating the provision of a glass of wine at dinner from the provision of alcohol in large quantity to their children.

My understanding is that the tavern owners have no problem with the bill, nor do the probation officers. The probation officers would like an amendment to clarify how intoxication is determined, which could be accomplished by adding, after "impairment" on page 2, line 17, the words: "AS DETERMINED BY A STANDARD FIELD TEST OF SOBRIETY USED BY LAW ENFORCEMENT OFFICERS." I believe their lobbyist will testify on the bill; they seem to feel it would be useful in extreme cases of parental irresponsibility, and there is no sentiment to ban parents from giving their kids alcohol altogether. I am also told that the BAC of .05 provision cannot be enforced unless the suspect agrees to take the test. I see it as useful as a guideline, as a scientific method of proving or disproving the offense where the suspect agrees to the test, but I wouldn't be upset if it was deleted.

If their is opposition, it is likely to be from the alcoholism crowd or the magistrates. They might argue that no parent should ever give their kid alcohol no way, no how, and that the standards of "intoxicating quantity" are unenforceable. If the gist of their argument is that an Italian parent in Butte who gives his child a glass of wine at dinner, or a parent who gives his kid even a sip of beer, should be subject to $500 fine, 6 months in jail, loss of custody, and other penalties, then they are welcome to make that argument. I can't see the committee buying it. In any case, some limit should be preferable to them over current law, which provides no limit on how much booze parents can give their kids. They should also like the liability.

This bill would allow some expanded law enforcement. For example, under current law, a youth who is drunk in public is in legal condition if the booze was supplied by his parents, but not under HB 606. If parents give their kid a case of beer, and he goes out and drives drunk and kills someone, the parents could not be held liable under current law (at least, it's unclear), but could be under HB 606. Finally, officers could intervene in family situations where parents are getting their kids severely or repeatedly drunk, before more serious offenses occur, which they could not now do.

If some flaw surfaces I'm not aware of, I would be happy if HB 606 passes with merely Sections 3 and 4 intact to provide cross-reference and clarity to present law. That would transform it into a still very useful housekeeping bill, though I prefer it in its current form.

As a member of the press, I can't testify for or against bills. When I asked you to sponsor the bill, I didn't know I'd be sent up to report on the session. I will be on hand at the hearing to answer questions, and if you like, direct them to me. Dorothy Bradley has said she'll testify. I really appreciate your sponsoring this bill, and if there's more I can do, please let me know.

Mike Males

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Vice Chairman Al Bishop, on March 16, 1989, at 10:00 a.m. in Room 325.

ROLL CALL

Members Present: Chairman Bruce Crippen, V.Chairman Al Bishop, Senators Tom Beck, Mike Halligan, Joe Mazurek, Loren Jenkins, John Harp and Bill Yellowtail.

Members Excused: Bob Brown and R. J. "Dick" Pinsoneault

Members Absent: None

Staff Present: Staff Attorney Valencia Lane and Committee Secretary Rosemary Jacoby

Announcements/Discussion: Senator Bishop announced that members of the committee were to be in and out of the meeting as they were required to be in other hearings during some of the same time. He conducted the first part of the meeting.

HEARING ON HOUSE BILL 606

Presentation and Opening Statement by Sponsor.
Representative Ed Grady of Canyon Creek, representing District 47, opened the hearing with a prepared opening statement (Exhibit 1). The purpose of the bill was to allow parents to provide non-intoxicating amounts of alcohol to their child. He said the bill had been drafted at the request of constituents of Rep. Dorothy Bradley of Bozeman, since Rep. Bradley's legislative workload had been too heavy.

List of Testifying Proponents and What Group they Represent:
There were none.

List of Testifying Opponents and What Group They Represent:
There were none.

Testimony:
There was none.

Questions from Committee Members:

Senator Yellowtail asked if parents would be required to test their children for intoxication. Rep. Grady said no, there would have to be a common sense approach. He said the bill also provided that a person providing an intoxicating quantity of alcohol to a person under 21 years of age subject to civil liability for tortious acts committed by the person while intoxicated.

Closing by the Sponsor:
Rep. Grady closed the hearing.

HEARING ON HOUSE BILL 495

Presentation and Opening Statement by the Sponsor:
Representative Bill Strizich of Great Falls, representing District #41, opened the hearing. He said the bill simply clarifies "possession" of intoxicating substances. Problems occur for school authorities when students come to school in an intoxicated state or high on drugs. Under present statute, authorities cannot intervene. This bill will allow a means for dealing with the problem.

List of Testifying Proponents and What Group they Represent:
Judy Griffith, Helena Project Care, Lewis and Clark DUI Task Force, her own Chemical Dependency Counselling and Consulting, Helena School District Chemical Awareness Programming
Janet Gray, herself
Mike DaSilva, Lewis and Clark DUI Task Force
Barb Moy, Lewis and Clark County , Stop DUI Coordinator
Ruth Hodges, Lake County DUI Task Force
Raelene Beaton, Lewis and Clark County Commissioner and Stop DUI
Captain Robert Sayer, Great Falls Police Department
Claire Cantrell, Gallatin County Task Force
Leonard Wharton, Jefferson County Task Force
Gary Davis, Great Falls High School
Steve Henneberg, C. M. Russell High School

List of Testifying Opponents and What Group They Represent:
There were none.

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date 3-16-89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN			✓
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT			✓
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

Brady EX 1

SENATE JUDICIARY
EXHIBIT NO. 1
DATE 3-16-89
BILL NO. HB 606

HOUSE BILL 606 -- effects:

* Provides that a parent or guardian may provide alcoholic beverages in less than intoxicating quantity to his/her own child under age 21.
* Defines "intoxicating quantity" to mean that amount of alcohol which produces significant mental or physical impairment, or a blood alcohol content of .05 or greater.
* Provides that a person over 21 who provides alcohol in intoxicating quantity to a person under 21 is civilly liable for any tortious act judicially determined to be the result of that intoxication.
* Clarifies and cross-references current contradictory laws. Sections 45-5-622 and -623 appear to ban parents from giving any alcohol to their own children due to the vagueness of whether the phrase, "contributes to the delinquency of a child" refers to the giving of the alcohol itself, or some other delinquent act caused by the alcohol provision. Conversely, 16-6-305 allows parents to give alcohol to their children for "beverage" purposes without limit on quantity. HB 606 attempts to strike middle ground between these two extremes.

* Does not extend the authority of parents to give alcohol to their children beyond present law; in fact, it sets limits.
* Does not allow adults other than parents to give alcohol to their children, except doctors or pharmacists for prescribed medical uses, or ordained priests or ministers in connection with religious rituals.
* Does not extend the liability of tavern owners beyond present law.
* Does not change present law with respect to public drinking by minors.

Intent of HB 606:

* To clearly allow parents to provide their own children with moderate amounts of alcohol, such as a glass of wine at dinner.
* To prohibit parents from getting their children drunk.
* To allow early intervention into family situations where parents get their children chronically or substantially drunk, or allow them out in public while drunk, before more serious offenses occur.
* To extend the liability of persons over 21 who get underaged persons drunk to specifically include parents and members of the public.

Rationale for HB 606:

* Studies have consistently shown that (a) youths who learn to drink in family settings have fewer alcohol problems than youths who learn to drink with peers, and (b) family settings promote more moderate use of alcohol by both youths and adults than peer-only settings. HB 606 promotes both moderation and family context for alcohol use.
* Parents need clear and reasonable guidelines covering alcohol provision, rather than the contradictory mismash of present law that makes no distinction between parents who provide a glass of wine at dinner and parents who throw keggers for their children.
* There is no medical evidence that light or moderate drinking by youths promotes alcoholism, but there is evidence that heavy chronic drinking impairs minors more than adults. HB 606 separates these practices.
* HB 606 is likely to be enforced only in clear cases in which parents get their children repeatedly or very drunk. If a youth refuses to take a BAC test, conviction can occur from the impairment standard.

DATE 3-16
BILL NO. #B

- 19% of young people age 12 to 17 have a serious drinking problem, double the adult statistics.
- One - fourth of all high school students smoke pot once a week to daily. 6% of children ages 10-13 smoke pot at least once a week.
- Over 5% of 10-13 year olds admit to getting drunk at least once a week.
- Cocaine use is on the rise among high school students; 5% of 14-18 year olds admit to use of this drug. It has even entered grade schools. 1% of 6th - 8th gra snort cocaine and over 35,000 admit that they routinely use it once a week.
- Substance abuse in America is the highest of any developed country in the world.
- The adolescent death rate from accidents, overdoses and suicides related to chemical use is skyrocketing according to the Surgeon General.
- The single leading cause of death among young people is drunk driving. The second leading cause of death is suicide. It is not a coincidence that the dramatic rise in alcohol/drug use and the dramatic rise in suicide are occurring at the same time.
- Life expectancy is increasing for every age group except teenagers who are dying at a 15% faster rate than 20 years ago.
- A teenager can become an alcoholic in 6 months.
- One study indicates 88% of sexually active children below the age of 15 use alcohol/drugs.
- A major new sub-group of young mentally ill patients between the years of 18 and 35 is beginning to be seen by doctors. These patients are found to be rootless, unemployed and heavily used alcohol and other drugs and either strongly resisted help or for whom no help was available.

"Most of the general public does not see alcohol as a drug. Most people do not think about the alcohol experience as an altered state of consciousness."

- Robert Hammond, Author of "Almost All You Ever Wanted To Know About Alcohol".

"The younger the age at which an individual starts to ingest alcohol, the greater the chances he/she will develop into a chronic alcoholic. The action of the alcohol is channeled directly toward the adolescent's imbalanced hypothalamus and autonomic nervous system, thereby obstructing his emotional maturation on both psychological and physiological levels."

- Dr.J.Valles, Dir, Alcoholism Therapy, Veteran's Hospital, Houstan, Texas

"I recommend sparing no effort whatsoever in how a person exercises their responsibility to the user.Searches are in order, use of police to back up parental authorit if necessary, and hospitalization are all methods that I have recommended and have seen used. Someone who cares must intervene, totally, consistently, and with unrelenting perseverence. Efforts short of an all-out effort generally fail."

- Dr. Harold Voth, Sr. Psychiatrist, Meninger Foundation

"The best possible solution is parents accepting their responsibilities, asserting their authority & confronting the situation honestly. Through ignorance of what is actually going on, or through feelings of shame & helplessness, many parents have been abdicating their responsibilities in this area to schools, agencies & police. Direct parental involvement stands as one of the most hopeful signs for the future."

- I. Dogoloff, White House Drug Policy Advis

Judy Griffith Exh 3

SENATE JUDICIARY
EXHIBIT NO. 3
DATE 3-16-89
BILL NO. HB 606

TABLE 1

Percent of Helena School District No. 1 Students and 12th Graders Across The Country Who Have Ever Tried A Drug*

	7th - 8th	9th - 10th	11th - 12th	National** 12th
Alcohol	67%	88%	95%	92%
Cigarettes	37%	48%	55%	67%
Marijuana	10%	21%	41%	50%
Cocaine	2%	3%	7%	15%
Stimulants	6%	12%	22%	22%
Legal Stimulants	5%	15%	19%	***
Inhalants	12%	12%	10%	17%
Nitrites	<1%	2%	2%	5%
Downers	1%	3%	4%	7%
Quaaludes	<1%	2%	2%	4%
Tranquilizers	<1%	2%	2%	11%
Hallucinogens	2%	5%	11%	10%
PCP	<1%	1%	2%	3%
Narcotics other than heroin	3%	6%	8%	9%

Information about crack, heroin, and smokeless tobacco is available in Part III.

* *Throughout this report most figures are rounded to the nearest percent.*

** *The national data on drug use among high school seniors are from the annual national surveys funded by the National Institute on Drug Abuse and conducted by the Institute for Social Research at the University of Michigan.*

*** *Data not available.*

DATE 3-16-89
BILL NO. HB 606

11-12 GRADERS
CURRENT USE
(30 DAYS PRIOR TO SURVEY)

	1-2 TIMES	3-9 TIMES	10 OR M
LCOHOL	26%	31%	13%
runk	27%	21%	5%
arijauna	6%	4%	3%
ocaine	2%	1%	1%
imulants	3%	1%	1%

53% of 11th & 12th graders admit being drunk during the 30 days prior to the survey

SENATE JUDICIARY
EXHIBIT NO. 3 pg 3
DATE 3/16/89
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HIGH RISK BEHAVIORS

	7-8	9-10	11-12
Blacked out	10%	31%	44%
Drunk Alone	10%	19%	27%
Used Marij & alcohol together	5%	13%	27%
Used Alcohol & other drugs together	5%	10%	15%
Use Marij daily	1%	1%	3%
Used a "Bong"	5%	12%	27%
Used Sensimilla	1%	1%	3%
Used Hashish	2%	4%	9%

DATE 3-16-8
BILL NO. HB 606

WHERE STUDENTS USE

	7-8	9-10	11-1
ON WAY TO SCHOOL	3%	9%	12%
DURING SCHOOL	3%	11%	22%
AT SCHOOL EVENTS	7%	34%	53%
AT PARTIES	25%	58%	76%
AT NIGHT WITH FRIENDS	36%	66%	81%
WHILE DRIVING AROUND	8%	33%	60%
AT HOME	41%	51%	56%

SENATE JUDICIARY
EXHIBIT NO. 3, p. 5
DATE 3-16-89
BILL NO. HB 606

WHAT PROBLEMS HAVE HELENA SCHOOL DISTRICT NO. 1 STUDENTS HAD BECAUSE OF ALCOHOL OR DRUGS?

The survey also asked the students whether they had ever experienced any problems because of their alcohol or drug use. The figures in Tables 11A and 11B show how many students admit that alcohol or drugs have caused them problems, and what types of problems they have had. These percentages are only a base. People who abuse alcohol or drugs often avoid admitting that they are hurting themselves. Thus the following figures are a conservative estimate of these students' problems with alcohol and drugs.

TABLE 11A

Admitted Problems of Helena School District No. 1 Students From Alcohol

	7th - 8th	9th - 10th	11th - 12th
Got a traffic ticket	<1%	2%	8%
Caused a car accident	<1%	4%	10%
Got arrested	2%	7%	19%
Caused you money problems	4%	17%	24%
Gotten you in trouble in school	3%	5%	8%
Hurt your school work	6%	12%	20%
Caused a fight with other kids	10%	23%	33%
Caused a fight with parents	8%	21%	29%
Damaged a friendship	6%	15%	19%
Caused you to break something	11%	27%	41%
Made you "black out"	10%	31%	44%

SENATE JUDICIARY
EXHIBIT NO. 4 Pg 1
DATE 3-16-89
BILL NO. HB 606

Author Jeanette, 17, Alcoholic
senior at R.A.L.

1st time I have ever
supported the legal sys.
before it was a joke.

Hope asp Imy not sure
I'll be up here.

I feel it is important
this bill to pass
because. pw, I think
present ones don't as
helpful as they might
be.
It needs to be strong
ough to be addressed
Rather than disregarded

My no worries at all.

Most kids are amused
when they are pulled
over + cited for possession
It a joke.

The original exhibit consists of eight 3"x5" cards. It is housed at the Historical Society.

SENATE JUDICIARY
EXHIBIT NO. 4 P92
DATE 3-16-89
BILL NO. HB 666

It needs to be strong enough to have an impact. The fear of ever being drunk. Resulting in possesion will help.

In me. yrs. I got drunk before dawn so, no enforce would be on

me. in me yrs. They don't do nothing to you for being drunk. ~~with~~ your support of ~~of~~ this bill they can.

Ex T. Berriza. Got his drivers license the Summer of his frosh yr. 1yr. before

he got a passion - He died last Aug Drunk driving.

For some it's beyond passion it leads for a few to death

The Bar Laws taken

SENATE JUDICIARY
EXHIBIT NO. 4 p.93
DATE 2-16-89
BILL NO. HB 146

Saying its the 1st time
Using before.
Blowing it off.
No Serious cons will
subst in repetition getting
worse each time

Show the Story.
Please support this
bill
THANK you
It was an honor.

the Street

This article was written by Cpl Dale Martel, NCO in charge of the RCMP Detachment at Field, B.C. and expresses the feeling of most members of the force.

This is an open letter to all parents of all young people everywhere. I am writing in response to some of the questions you ask me daily. I am not one police officer, but I represent every officer in every city and town in Canada.

You may know me only as the cop who gave you a ticket last summer, but I am also the guy who lives down the street from you. I am the parent of three children and I share with you the same hope, ambition and dreams that you have for your children. I am faced with the same problems you have. I share with you these moments of agony and ecstasy. I share with you the feeling of shame, guilt and disappointment when my boy or girl gets into trouble.

The scene is a long stretch of highway with a sharp curve at one end. It has been raining and the roads were slick. A car travelling in excess of 128 km/h missed the curve and plowed into an embankment where it became airborne and struck a tree. At this point, two of the three young passengers were hurled from the vehicle, one into the tree, the other into the roadway, where the car landed on him, snuffing out his life, like a discarded cigarette on the asphalt. He is killed instantly, and he is the lucky one.

The girl thrown into the tree has her neck broken, and although she was voted queen of the senior prom and most likely to succeed, she will now spend the next 60 years in a wheelchair.

Unable to do anything else, she will live and relive that terrible moment over again many times. When I arrive, the car has come to rest on its top, the broken wheels have stopped spinning. Smoke and steam pour out of the engine ripped from its mounting by a terrible force. An eerie calm has settled over the scene and it appears deserted except for one lone traveller who called it in. He is sick to his stomach and leaning against his car for support.

The driver is conscious but in shock and unable to free himself from under the bent twisted steering column. His face will be forever scarred by deep cuts from be touched by the skilled surgeon's scalpel. The third passenger has almost stopped bleeding, the seat and his clothing are covered in blood from an artery cut in his arm by the broken bone end that protrudes from his forearm just below the elbow. His breath comes in gasps as he tries desperately to suck air past his blood-filled airway. He is unable to speak and his eyes, bulged and fixed on me pleadingly, are the only communication that he is terrified and wants my help. I feel a pang of guilt and recognize him as a boy I let off with a warning the other night for an open container of alcohol in his car. Maybe if I had cited him then, he wouldn't be there now. Who knows? I don't.

He died soundlessly in my arms, his pale blue eyes staring vacantly as if trying to see into the future he will never have. I remember watching him playing basketball and wonder what will happen to the scholarship he will never use. Dully my mind focuses on loud screaming and I identify it as the girl who was thrown from the vehicle. I race to her with a blanket but I am afraid to move her.

Her head is tilted at an exaggerated angle. She seems unaware of my presence there and whimpers for her mother like a little child. In the distance, I hear the ambulance winding its way through the rainy night. I am filled with incredible grief at the waste of so valuable a resource, our youth.

I am sick with anger and frustration with parents and leaders who think a little bit of alcohol won't hurt anything. I am filled with contempt with people who propose lowering the drinking age because they will get booze anyway, so why not make it legal? I am frustrated with laws, court rulings and other legal manoeuvring that restrict my ability to do my job in preventing this kind of tragedy.

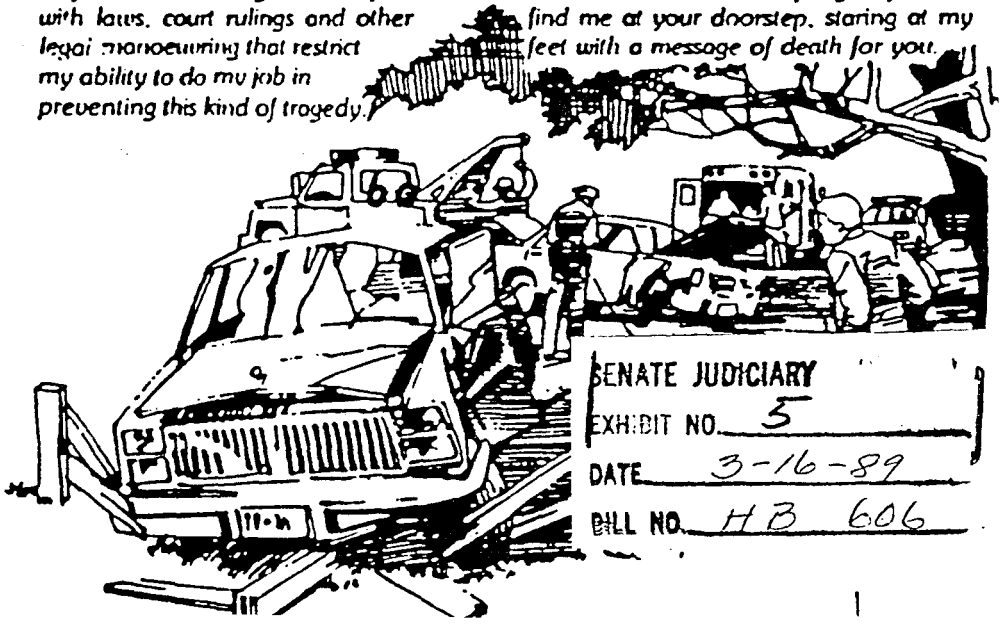
injured. I stand by, watching, as hot tears mingle with rain and drip off my cheeks. I would give anything to know who furnished those young people with that booze. I will spend several hours on reports and several months trying to erase from my memory the details of that night.

I will not be alone. The driver will recover and spend the rest of his life trying to forget. I know the memory of this fatal accident will be diluted and mixed with other similar accidents I will be called upon to cover.

Yes I am angry, and sick at heart with trying to do my job and being tagged the bad guy. I pray to God that I might never have to face another parent in the middle of the night and say your daughter, Susan or your son, Bill has just been killed in a car accident.

You ask me why did this happen? It happened because a young person, stoned out of his mind, thought he could handle two tons of hurtling death at 128 km/h. It happened because an adult, trying to be a "good guy," bought for or sold to some minor a case of beer. It happened because you as parents weren't concerned enough about your child to know where he was and what he was doing; and you were unconcerned about minors and alcohol abuse, and would rather blame me for harassing them when I was only trying to prevent this kind of tragedy. It happened because as people say, you believe this sort of thing only happens to someone else.

For your sake, I hope it doesn't happen to you, but if you continue to regard alcohol abuse as part of growing up, then please keep your porch light on because some cold, rainy night, you will find me at your doorstep, staring at my feet with a message of death for you.



SENATE JUDICIARY
EXHIBIT NO. 5
DATE 3-16-89
BILL NO. HB 606

6

SENATE JUDICIARY
EXHIBIT NO. 6
DATE 3-16-89
BILL NO. HB 606

Montana Magistrates Association

16 March 1989

Testimony offered in support of HB393, a bill for an act entitled: "An act relating to possession of an intoxicating substance; increasing the penalty for a person between 18 and 21 years of age who possesses an alcoholic beverage; providing that costs of participation in a community-based substance abuse information course may be paid indirectly through court-ordered community service."

Given before the Senate Judiciary Committee by Wallace A. Jewell on behalf of the Montana Magistrates Association representing the judges of courts of limited jurisdiction of Montana.

The MMA would support any effort to stop the alcohol abuse cycle. It is exceedingly frustrating when a 19 year old youth comes before the court for the 3d time in 6 months for the same offense and the court can do nothing different from the first two times to effect a change in the person's behavior.

It is exceedingly frustrating when a father is in jail for theft and he was so drunk when he was arrested that he can't remember why he was arrested, where he was when he was arrested, or how he got the 6 stitches in his forehead. This same man is upset when it is his 19 year old son who is arrested for illegal possession of alcohol - "where did he get such a crazy idea" said the father.

If we could in some way impress upon our youth that the possesson of alcohol is wrong and could lead to worse alcohol related behavior, perhaps our courts would not be spending such a large percentage of their time with alcohol related offenses.

From June of 1986 to June of 1987, there were 329 misdemeanor criminal convictions in Havre City Court. Of these, 65% (213) were alcohol related. Of these 213, 31% (66) were committed by youth under 21 years of age. From January to March of 1988, youth under 21 were responsible for 42% of alcohol related crime in Havre.

At some point in time we hope someone will say enough is enough. If alcohol possession by those under 21 is illegal then we hope the legislature gives the courts the tools with which to work so we can positively effect their behavior.

We encourage you to give HB393 a do concur recommendation.

Wallace A. Jewell

BILL NO. HB606

Amendments to House Bill No. 425
Third Reading Copy

Requested by Representative Vincent
For the Committee on the Judiciary

Prepared by John MacMaster
March 15, 1989

1. Page 5, Line 10:

Strike: "PROGRAM"
Insert: "certified chemical dependency"

2. Page 5, Line 24:

Following: "failure."
Insert: "As long as the alcohol information course or treatment program is approved as provided in this subsection the defendant may attend the information course or treatment program of his choice. The treatment provided defendant at a treatment program must be at a level appropriate to his alcohol problem, as determined by the ~~certified chemical dependency counselor.~~"

change to judge . . . (13.6)

based upon the recommendation by the certified chemical dependency counselor.

BILL NO. City-County Building
P.O. Box 1723
Helena, Montana 59624
Telephone 406/443-1010

LEWIS AND CLARK COUNTY

STOP-D.U.I. Task Force — Health Department

e Helena/Lewis and Clark County STOP-DUI Task Force supports HB 393, (* HB 425, * HB 495,) HB 5
d HB 606 for the following reasons: (* primary focus)

Drinking is a factor in 80%-90% of traffic fatalities.

A large percentage of individuals arrested for DUI are diagnosed as either alcoholic problem drinkers.

The BAC of a person arrested for DUI is generally .10% or more, with BAC'S of .18% to .2 being average. To reach a BAC of .10% or more, an abnormal use of alcohol is required.

Because many DUI offenders are either alcoholic or problem drinkers, they need appropria strategies that compel them to abstain from drinking altogether.

Teenagers are more prone to becoming alcoholic/chemically dependent than adults becau their bodies simply are not developed physiologically, psychologically, or emotionally. younger youth are when they begin to drink, the greater their risk of developing the dise of alcoholism. Currently, alcohol-related motor vehicle crashes constitute the lead cause of death for youth of driving age.

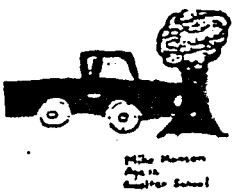
Drug and alcohol counselors in the Helena area are seeing youth who have 4, 5, and 6 charges!

A recent drug and alcohol survey administered to Helena School District # 1 students (gra 7 thru 12) reveals this information:

- 32.8% of students in 11th & 12th grades are "at risk" from alcohol use.
- 60% of students in 11th and 12th grades have reported drinking while driving.
- 20% of students in grades 7 thru 12 have reported their school work is affected chemical use.

cording to H. Laurence Ross, a speaker at a Highway Safety Conference, 1984, "Drun iving is normal in this society. It is a natural product of our social institutions, ticular our patterns of drinking and recreational activities and our patterns nsportation." Our society will continue to experience the repercussions of alcoh lated incidents and fatalities until the vast majority of people decide that drinking iving is unacceptable and will not be tolerated. Therefore, the Helena/Lewis and Cl nty STOP-DUI Task Force supports the above mentioned House Bills as they will provide stricter enforcement and handling of persons who unlawfully use intoxicating substances.

It's because we care.



Steve Browning said amendments were being proposed on the gross negligence standard. They had been discussed but not adopted during the previous executive session. Senator Mazurek had intended to make floor amendments, but it had been suggested to rerefer the bill to committee to work on a compromise with the Trial Lawyers regarding emergency services payment, whether survivors would pay for them or expect to pay for them. He said there were 3 different places in the bill where it could be clarified that there was no expectation of compensation for those services. With those insertions, the Trial Lawyers agreed to then allow the "gross negligence" standards. He said there would be very few cases where this would occur, and they were articulated on sec. I, p. 2, lines 17 through 23. Essentially, he said, it was for cases where normally a health care practitioner would not provide services i.e. referrals in most circumstances which are prohibited by an emergency situations. He said the gray bill was agreed to in addition to this amendment by the Trial Lawyers.

Mike Sherwood said this amendment recognized that the Good Samaritan rule could be applicable in situations other than at the scene of the emergency: When a doctor or health care provider has an emergency brought to him and there still is no expectation of payment -- then "gross negligence" would be applicable.

Senator Jenkins asked for a definition of "reasonable expectation of payment." Senator Mazurek said, if a patient has any ability to pay, he would be expected to pay. Mike Sherwood said the language was taken from California statute. He said there hadn't been any interpretation of statute to date, but he agreed with Senator Mazurek.

Amendments and Votes: Senator Pinsoneault MOVED the amendment requested by Senator Mazurek (Exhibit 6). The MOTION CARRIED UNANIMOUSLY.

Recommendations and Votes: Senator Mazurek MOVED that House Bill 57 BE CONCURRED IN AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL 606

Discussion: Senator Mazurek said he thought the bill was conflicting and didn't offer enough guidelines. Senator Beck wondered if parents were supposed to administer breathalyzer tests. Senator Crippen brought up the wine

used in churches. Senator Mazurek said there had many alcohol abuse experts present at the hearing and that none testified in opposition of the bill.

Amendments and Votes: None

Recommendations and Votes: Senator Jenkins MOVED that House Bill 606 BE CONCURRED IN. The MOTION CARRIED on a vote of 5 to 4 with Senators Harp, Pinsoneault, Yellowtail and Crippen voting NO.

DISPOSITION OF HOUSE BILL 393

Discussion: Valencia said the bill increases the penalty for possession in minors between the ages of 18 and 21. They essentially gutted the bill in the House and the heart of the bill was on p. 18, she said.

Wally Jewell said he had favored the bill before it had been "gutted." He said he thought it would help in the prosecution of youths and possibly discourage the consumption of alcohol.

Amendments and Votes: None

Recommendations and Votes: Senator Pinsoneault MOVED that House Bill 393 BE TABLED. After further discussion, he WITHDREW his motion.

Senator Halligan MOVED that House Bill 393 BE CONCURRED IN. The MOTION CARRIED by a vote of 7 to 2, with Senators Beck and Jenkins voting NO.

DISPOSITION OF HOUSE BILL 495

Discussion: Senator Jenkins said the bill was to remedy the law that, if a person under 21 has been discovered to have consumed alcohol or drugs, they cannot be charged with possession. Senator Halligan said "constructive possession" is sometimes charged when there is no actual possession. Valencia said "probable cause" could apply.

Amendments and Votes: None

Recommendations and Votes: Senator Jenkins MOVED that House Bill 495 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY.

ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date 3-17-89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN			✓
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

March 17, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration HB 606 (third reading copy -- blue), respectfully report that HB 606 be concurred in.

Sponsor: Grady (Blaylock)

BE CONCURRED IN

Signed: _____
Bruce D. Crippen, Chairman

scrhb606.317

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 3-17-89 House Bill No. 606 Time

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK	✓	
SEN. BROWN absent		
SEN. HALLIGAN	✓	
SEN. HARP		✓
SEN. JENKINS	✓	
SEN. MAZUREK	✓	
SEN PINSONEAULT		✓
SEN. YELLOWTAIL		✓
SEN. CRIPPEN		✓

5 to 4

Rosemary Jacoby
Secretary

Sen. Bruce Crippen
Chairman

Motion: Sen. Jenkins BCI. Passed 5 to 4